

ORDINANCE NO. 2022-02-17

**AN ORDINANCE OF THE CITY OF GORMAN, TEXAS PROHIBITING THE DISCHARGE OF FIREARMS IN THE CITY LIMITS; PROVIDING EXCEPTIONS; PROVIDING A PENALTY CLAUSE; PROVIDING REPEALER AND SEVERABILITY CLAUSES; PROVIDING FOR PUBLICATION; AND ESTABLISHING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Gorman (the “City”) is a home-rule municipality operating under its Charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution;

**WHEREAS**, pursuant to Article III, Section 1 of its Charter, the City has the “power to ordain and establish such acts, laws, rules, regulations, resolutions and ordinances, not inconsistent with the Constitution and laws of Texas...as shall be needful for the government, interests, health, welfare and good order of [the] City and its inhabitants”;

**WHEREAS**, the City Commission of the City wishes to prohibit the discharge of firearms within the City to protect the safety of its residents;

**WHEREAS**, Section 229.001 of the Texas Local Government Code does not prohibit cities from regulating the discharge of firearms within city limits, but does prohibit cities from regulating the discharge of firearms at a sport shooting range;

**WHEREAS**, Section 229.002 of the Texas Local Government Code prohibits cities from regulating the discharge of certain weapons on certain property in areas that were not within the city limits as they existed in 1981; and

**WHEREAS**, the City Commission finds that the regulations contained in this Ordinance are the best interest of the health and welfare of citizens of the City.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF GORMAN, TEXAS:**

I. **Enactment.** That the following Ordinance is hereby adopted as the Firearms Ordinance of the City of Gorman, Texas.

**A. Definitions.**

As used in this Ordinance, the following terms have the following meaning, unless the context clearly indicates otherwise:

*Firearm* means any device designed, made, or adapted to expel a projectile through a barrel by using the energy generated by an explosion or burning substance or any device readily convertible to that use. A “firearm” does not include a firearm that may have, as an integral part, a folding knife blade or other characteristics of weapons made illegal by Chapter 46 of the Texas Penal Code and that is an antique or curio firearm manufactured before 1899 or a replica of an antique or curio firearm manufactured before 1899, but only if the replica does not use rim fire or center fire ammunition.

*Sport Shooting Range* means a business establishment, private club, or association that operates an area for the discharge or other use of firearms for silhouette, skeet, trap, black powder, target, self-defense, or similar recreational shooting.

**B. Prohibited.**

It is unlawful for any person to discharge a Firearm within the City limits.

**C. Exceptions.**

It is an exception to Section B if the discharge of a Firearm occurs in one of the following circumstances:

1. The person discharging the Firearm was a peace officer or animal control officer acting in the performance of his or her official duties;
2. The discharge of a Firearm occurred at a Sport Shooting Range;
3. The person discharging the Firearm was lawfully defending his person or the person of another;
4. The person discharging the Firearm was lawfully defending his property, or the property of another upon request from the owner of said property, from pests, such as skunks, raccoons, rats, or other animals acting in a dangerous or threatening manner;
5. The discharge of a shotgun, air rifle or pistol, BB gun, or bow and arrow occurred on a tract of land of 10 acres or more and more than 150 feet from a residence or occupied building on another property, and was discharged in a manner not reasonably expected to cause a projectile to cross the boundary of the tract, if the tract of land was annexed into the City of Gorman after September 1, 1981; or
6. The discharge of a center fire or rim fire rifle or pistol of any caliber occurred on a tract of land of 50 acres or more and more than 300 feet from a residence or occupied building located on another property, and was discharged in a manner not reasonably expected to cause a projectile to cross the boundary of the tract, if the tract of land was annexed into the City of Gorman after September 1, 1981.

**D. Prosecution.**

1. Any peace officer that observes a person in violation of Section B may file a complaint against, or issue a citation to, the violator to appear in the Gorman Municipal Court.
2. If the violation is not observed by a peace officer, action can still be taken by a person who witnessed the violation. The person must submit a written, sworn affidavit to the Gorman Municipal Court that includes details of the violation and identifies the person who committed the violation. At the prosecutor's discretion, official charges may be filed against the alleged violator.

E. **Penalty.** Any person who violates the provisions of this Ordinance may be charged with a Class C misdemeanor and, if convicted, shall be assessed a fine of up to five hundred dollars (\$500.00).

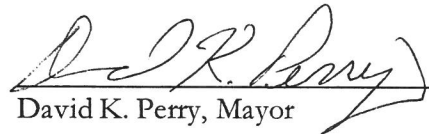
II. **Repeal.** That any prior ordinances, resolutions, or policies, or any provisions of any ordinances, resolutions, or policies, that are in conflict with the terms of this Ordinance shall be and are hereby repealed to the extent of such conflict.

III. **Severability.** That the provisions of this Ordinance are declared to be severable. If any section, sentence, clause, or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining sections, sentences, clauses, or phrases of this Ordinance, but they shall remain in effect notwithstanding the invalidity of any other part.

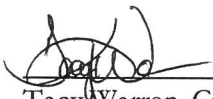
IV. **Effective Date.** That this ordinance shall take effect upon its final adoption by the City Commission and after publication as required by the Local Government Code.

**PASSED** upon first reading this the 3<sup>rd</sup> day of February 2022.

**PASSED, APPROVED, AND ADOPTED** upon second and final reading this the 17<sup>th</sup> day of February 2022.

  
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David K. Perry, Mayor

ATTEST:

  
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Tacy Warren, City Secretary

